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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JONATHAN JOHNSON,

Petitioner,

v.

**JAMES A. YATES, Warden of
Pleasant Valley State Prison,**

Respondent.

No. C07-3522 RMW

**[Proposed] Order Granting
Application To Hold Habeas Petition
In Abeyance Pending Exhaustion Of
State Remedies**

On July 6, 2007, petitioner filed a Petition for Writ of Habeas Corpus in this Court attacking the constitutionality of his state criminal conviction and sentence. The Petition contains two claims: that the imposition of consecutive life sentences violated the Sixth Amendment right to jury trial, and that the judgment was obtained in violation of his Sixth Amendment right to effective assistance of counsel. The former claim has been exhausted in state court; the latter claim has not. Petitioner's state habeas corpus petition raising the ineffective assistance claim is presently pending before the state court, which has not yet adjudicated it.

When a state prisoner files a mixed petition, and dismissal of that petition may deprive petitioner of federal review, the appropriate course is to hold the petition in abeyance until the state remedies have been exhausted. *Rhines v. Weber*, 544 U.S. 269 (2005); *Pace v. DiGugliemo*, 544 U.S. 408 (2005).

WHEREFORE, the Court orders that proceedings on the Petition for Writ of

1 Habeas Corpus be stayed, and that the Petition be held in abeyance until the state courts
2 have completed adjudication of petitioner's Sixth Amendment claim that he was deprived
3 of the right to counsel. Petitioner shall notify this court within 14 days of the completion
4 of the state proceedings.

5
6 Dated: _____
7 _____ United States District Judge